

REMARKS

The present divisional application has been filed pursuant to a telephone restriction requirement in parent application No. 10/332,271 by Examiner Ramsuer to the undersigned on June 26, 2003, in which the Examiner required restriction between the compound and composition claims 1-14 and process for preparing claim 17. In accordance with that restriction requirement, process for preparing claim 17 was cancelled in the Preliminary Amendment filed by facsimile that same day (June 26, 2003). All of the originally filed compound and composition claims 1-14, and added method claims 18 and 19, were allowed and issued as U.S. Patent 6,720,323 on April 13, 2004.

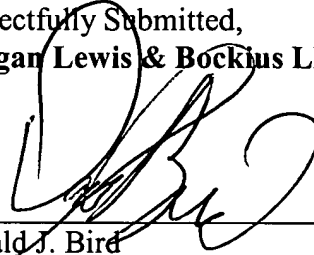
The present divisional application, therefore, is being filed to claim the subject matter of process for making claim 17, which was non-elected and cancelled from the parent application upon the Examiner's request, without an opportunity for rejoinder. Present claims 18-30 combine the precise compound scope allowed in the parent application with original process for preparing claim 17. Therefore, all of the present claims are directed toward a process for preparing the very compounds that were allowed in the parent application, and have now issued.

Process for preparing claim 17 would normally have been rejoined with the compound claims (upon which it was dependent) upon indication of allowability of the compound claims. See, *e.g.*, MPEP ¶ 821.04. However, in the parent case, the Examiner expressly requested that process for making claim 17 be cancelled and not joined with the allowable compound claims as a part of the oral restriction requirement of June 26, 2003. Under these circumstances, and in accordance with established U.S. Patent Office procedure (*e.g.*, MPEP ¶ 821.04), the present process claims, having been divided out of the parent

application pursuant to the Examiner's restriction requirement and request, and having an identical compound scope as the compound claims that were allowed and issued in the parent application, should now be in condition for allowance in this divisional application, without further restriction or action. A notice to that effect is therefore respectfully requested.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Director is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or to credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully Submitted,
Morgan Lewis & Bockius LLP



Date: April 26, 2004
Morgan Lewis & Bockius LLP
Customer No. **09629**
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel. No.: 202-739-3000
DJB:mk

By:

Donald J. Bird
Registration No. 25,323
Tel. No.: (202) 739-5320
Fax No.: (202) 739-3001